

---

**Federal Communications Commission**

---

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	File No. EB-02-PA-013
	)	
Networx Corporation	)	NAL/Acct. No. 200232400008
	)	
Pittsford, New York	)	FRN: 0006-0222-97

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released: August 15, 2002**

By the District Director, Philadelphia Office, Enforcement Bureau:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find that Networx Corporation has apparently violated Section 301 of the Communications Act of 1934, (the "Act"), as amended.<sup>1</sup> The violation occurred as a result of Networx Corporation's ("Networx") operation of four FM broadcast stations on the frequencies 98.9 MHz, 102.9 MHz, 103.9 MHz and 106.3 MHz at the Presbyterian Senior Center, 1215 Hulton Road, Oakmont, Pennsylvania without a license. We conclude that Networx is apparently liable for a forfeiture in the amount of \$10,000.

**II. BACKGROUND**

2. By letter dated December 27, 2001, the Philadelphia Office received a complaint from a local resident of Oakmont, Pennsylvania alleging that a broadcast station was operating on the frequency 103.9 MHz at the Presbyterian Senior Center in Oakmont, Pennsylvania. The complainant also alleged that the broadcast station was causing harmful co-channel interference to the reception of licensed broadcast station WLSW(FM) at his residence.

3. On January 12, 2002, the Philadelphia Office assigned FCC Agents David Dombrowski and Frank Cranmer to investigate the complaint. The agents used direction-finding techniques to locate the source of the transmissions on the frequency 103.9 MHz to the Presbyterian Senior Center, 1215 Hulton Road, Oakmont, Pennsylvania. The agents first detected the transmissions from the station with a standard car radio at the Pennsylvania Turnpike Interchange 5 which is more than 0.75 mile from the Presbyterian Senior Center. During an inspection of the broadcast station, a maintenance department employee informed the agents that the Presbyterian Senior Center subscribed to an FM broadcast service on the frequencies 98.9 MHz, 102.9 MHz, 103.9 MHz and 106.3 MHz called "Companion Radio." Networx installed and operated the four broadcast systems at different locations throughout the Presbyterian Senior Center to provide signal coverage. The broadcast stations were located in Room 4601, Room 053, the Tower Stairs on the third floor, and in a closet of a rear building. At each of the four locations, Networx operated broadcast station transmitters on the four frequencies for a total of 16 stations.

---

<sup>1</sup> 47 U.S.C. § 301.

4. Radio stations in the FM broadcast band, i.e., broadcast stations that transmit on a frequency between 88 and 108 MHz, must be licensed by the FCC (47 U.S.C. § 301). The only exception to this licensing requirement in the FM broadcast band is for certain non-licensed low-power radio transmitters operating at a power level that complies with Section 15.239 of the Commission's Rules ("Rules").<sup>2</sup> This section limits such transmitters to the field strength of 250  $\mu\text{V/m}$  at a distance of three meters from the transmitting antenna. If a station exceeds the limits specified in Section 15.239 of the Rules, then the operator must obtain a license prior to operating the station.

5. On January 12, 2002, the agents used a calibrated Potomac FIM-71 Field Strength Meter to conduct measurements of the signals from the broadcast stations. The agents conducted their measurements at the intersection of 12<sup>th</sup> Street and Hulton Road at a distance of over 300 feet from the station located in Room 053 of the Presbyterian Senior Center. The measurements indicated field strengths of 976  $\mu\text{V/m}$  on the frequency 98.9 MHz, 1,135  $\mu\text{V/m}$  on the frequency 102.9 MHz, 972  $\mu\text{V/m}$  on the frequency 103.9 MHz and 1,056  $\mu\text{V/m}$  on the frequency 106.3 MHz. The agents used extrapolation to calculate the field strength at three meters from the broadcast stations in Room 053 of the Presbyterian Senior Center. The broadcast stations exceeded the permissible level for a non-licensed radio transmitter by 119 times on the frequency 98.9 MHz, 138 times on the frequency 102.9 MHz, 119 times on the frequency 103.9 MHz and 129 times on the frequency 106.3 MHz. Accordingly, a license was required for the operation of the broadcast stations. Based on the Commission's records, no license had been issued for the operation of any FM broadcast station at this location. Thus, Networkx was operating the stations without a license, in violation of 47 U.S.C. § 301.

6. On January 22, 2002, the Philadelphia Office sent, via certified mail, a letter addressed to Networkx Corporation/Companion Radio, 1 Fishers Road, Pittsford, New York 14534. The letter warned the addressee that operation of the unlicensed radio stations on the frequencies 98.9 MHz, 102.9 MHz, 103.9 MHz and 106.3 MHz at the Presbyterian Senior Center, violated Section 301 of the Act; outlined the potential penalties for operating the unlicensed stations in violation of Section 301 of the Act, including seizure of the equipment, fines and imprisonment; and directed the operator of the station to terminate operation of the unlicensed stations immediately. The Philadelphia Office requested Networkx submit a written response within 10 days of receipt of the letter.

7. By letter dated February 1, 2002, Ken Unger, the President of Networkx, submitted a response to the Philadelphia Office. He acknowledged that they operated four broadcast systems at the Presbyterian Senior Center, each of which transmitted on the frequencies 98.9 MHz, 102.9 MHz, 103.9 MHz and 106.3 MHz. He stated that based on field strength measurements that it conducted on January 23, 2002, it does appear that one or more transmitters were generating field strengths in excess of the maximum allowed. He stated that they had already ceased operation of all the stations at the Presbyterian Senior Center. He also stated that they would place the stations back in operation only after appropriate measurements have been made on each transmitter individually and modifications have been implemented to reduce the field strength of any non-compliant transmitter to the parameters specified in Section 15.239 of the Rules.

### **III. DISCUSSION**

---

<sup>2</sup> 47 C.F.R. § 15.239.

8. Section 301 of the Act prohibits any person from using or operating any apparatus for the transmission of energy or communications or signals by radio except under and in accordance with the Act and with a license in that behalf granted under the provisions of the Act. On January 12, 2002, Networx operated four FM broadcast stations on the frequencies 98.9 MHz, 102.9 MHz, 103.9 MHz and 106.3 MHz in Room 053 of the Presbyterian Senior Center without a license. Networx would not have been required to obtain a license to operate the stations if the signal strengths did not exceed the FCC limits specified in Section 15.239 of the Rules. However, on January 12, 2002, the agents measured that the signal strengths of the broadcast stations exceeded the FCC limits by at least 119 times.

9. By letter dated October 30, 2000, the Philadelphia Office warned Networx that its operation of a broadcast station at the Dunwoody Village in Newtown Square, Pennsylvania without a license was in violation of Section 301 of the Act. The agents found that the station at the Dunwoody Village exceeded the limits specified in Section 15.239 of the Rules and Networx did not have a license to operate the station. Therefore, Networx was aware prior to January 12, 2002 of its responsibility to properly measure, adjust and maintain all of its broadcast stations to avoid subsequent violations of Section 301 of the Act.

10. Based on the evidence before us, we find that Networx apparently willfully<sup>3</sup> and repeatedly<sup>4</sup> violated Section 301 of the Act. *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17113 (1997), recon. denied, 15 FCC Rcd 303 (1999) ("*Forfeiture Policy Statement*")<sup>5</sup>, sets the base forfeiture amount for unlicensed operation at \$10,000. In assessing the monetary forfeiture amount, we must take into account the statutory factors set forth in Section 503(b)(2)(D) of the Act,<sup>6</sup> which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require. Applying the *Forfeiture Policy Statement* and the statutory factors to the instant case and applying the inflation adjustments, we believe that a ten thousand dollar (\$10,000) monetary forfeiture is warranted.

#### **IV. ORDERING CLAUSES**

11. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act<sup>7</sup> and Sections 0.111, 0.311 and 1.80 of the Rules<sup>8</sup> Networx is hereby NOTIFIED of its APPARENT

---

<sup>3</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act ...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>4</sup> Section 312(f)(2), which also applies to Section 503(b), provides: [t]he term "repeated", when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.

<sup>5</sup> 47 C.F.R. § 1.80.

<sup>6</sup> 47 U.S.C § 503(b)(2)(D).

<sup>7</sup> 47 U.S.C. § 503(b).

<sup>8</sup> 47 C.F.R. §§ 0.111 and 0.311.

---

**Federal Communications Commission**

---

LIABILITY FOR A FORFEITURE in the amount of ten thousand dollars (\$10,000) for willfully and repeatedly violating Section 301 of the Act.

12. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Networx Corporation SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

13. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. 200232400008, and FRN 0006-0222-97.

14. The response, if any, must be mailed to Federal Communications Commission, Enforcement Bureau, Technical and Public Safety Division, 445 12th Street, S.W., Washington, D.C. 20554 and MUST INCLUDE THE NAL/Acct. No. 200232400008.

15. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

16. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>9</sup>

17. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail, Return Receipt Requested, to Networx Corporation, 1 Fishers Road, Pittsford, New York 14534.

FEDERAL COMMUNICATIONS COMMISSION

John E. Rahtes  
District Director  
Philadelphia Office

---

<sup>9</sup> See 47 C.F.R. § 1.1914.